

REMARKS

Claims 1–4 and 9 are currently pending in this application. The claims stand rejected as being anticipated. Applicants believe that the present amendment introduces no new issues and respectfully request entry of the present amendment and reconsideration of this application in view of the amendment above and the comments below.

Support for Claim Amendments

The amendments presented above have been made to recite particular features of the inventions so as to expedite the prosecution of the present application to allowance in accordance with the USPTO Patent Business Goals (65 Fed. Reg. 54603, September 8, 2000). These amendments do not represent an acquiescence or agreement with any of the outstanding rejections.

New Claims 10 and 11 are directed to particular embodiments of the invention. Support for these new claims can be found on page 5 lines 7–10 of the specification. The rejections of the pending claims are discussed hereinbelow in the order that they are presented in the Action.

Claim Rejections - 35 U.S.C. § 102

Claim 1–4 and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by European Patent Application Publication No. EP 0 540 932 A1 (hereinafter, the EP '932 Application). It is the contention of the Examiner that the EP '932 Application discloses each and every limitation of the invention as instantly claimed. Applicants respectfully traverse this rejection.

Applicants respectfully reiterate that case law holds and the Manual for Patent Examination Procedure ("M.P.E.P.") states that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Furthermore, the identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Additionally, anticipation under 35 U.S.C. § 102 requires the disclosure in a single piece of prior

art of each and every limitation of a claimed invention. *Apple Computer Inc. v. Articulate Systems Inc.* 57 USPQ2d 1057, 1061 (Fed. Cir. 2000). Furthermore, a finding of anticipation further requires that there must be no difference between the claimed invention and the disclosure of the cited reference as viewed by one of ordinary skill in the art. *See Scripps Clinic & Research Foundation v. Genentech Inc.*, 927 F.2d 1565, 1576, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991). Additionally, the cited prior art reference must be enabling, thereby placing the allegedly disclosed matter in the possession of the public. *In re Brown*, 329 F.2d 1006, 1011, 141 U.S.P.Q. 245, 249 (C.C.P.A. 1964). Thus, the prior art reference must adequately describe the claimed invention so that a person of ordinary skill in the art could make and use the invention.

The Examiner asserts that the EP '932 Application discloses a containment device for protecting agricultural crops, wherein said containment device comprises a sex pheromone controlled release dispenser for simultaneously controlling two or more insect pests, wherein said sex pheromone controlled release dispenser comprises two or more polymeric chambers comprising two or more sex pheromones. The Examiner further asserts that the two or more polymeric chambers may be overlaid with the same sex pheromone permeable polymeric film laminate that may vary in size, thickness and/or shape, so as to simultaneously impart an optimal release rate of each of the two or more sex pheromones, thereby providing for the simultaneous control of the two or more insect pests. Applicants respectfully disagree.

The original EP '932 Application is in German and the Examiner provides a translation of the EP '932 Application. Applicants respectfully bring to the attention of the Examiner that a U.S. equivalent to the EP '932 Application exists and has issued and published as U.S. Patent No. 5,316,148. Nonetheless, page 12 lines 11–16 of the translation of the EP '932 Application points out that the sex pheromone dispenser of the EP '932 Application utilizes dispenser shape and different top films (sex pheromone permeable polymeric films) in order to coordinate the release rate of individual sex pheromones. This is in contrast to the present invention, wherein the sex pheromone permeable polymeric films as claimed are the same.

In view of the foregoing, Applicants present that the instant claims are not anticipated by the EP '932 Application, in that the EP '932 Application does not teach all the elements of the claimed invention, to which Applicants respectfully request that the instant rejection be withdrawn.

CONCLUSION

Applicants believe that the points and concerns raised by the Examiner in the Action have been addressed in full, it is respectfully submitted that this application is in condition for allowance. Should the Examiner have any remaining concerns, it is respectfully requested that the Examiner contact the undersigned Attorney at (919) 854-1400 to expedite the prosecution of this application to allowance.

A petition for extension of time is required with the filing of this paper and is filed concurrently herewith. The Commissioner is authorized to charge Deposit Account No. 50-0220 in the amount of \$120.00 fee for a one-month extension of time. This amount is believed to be correct. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

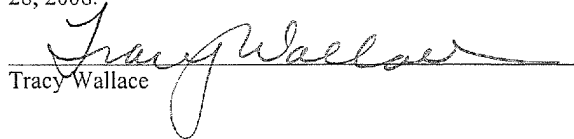


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CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on March 28, 2008.


Tracy Wallace